THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.1515 of 1995

ORDER:

Earlier, this Writ Petition was allowed in part on 22-8-2006. Thereafter, the Management carried the matter in appeal being W.A.No.1222 of 2006 and a Division Bench of this Court by a Judgment dated 29-11-2006 allowed the appeal and remanded the matter. Thus, this Court has heard the learned counsel for the parties again and the Writ Petition is being disposed of by this Order.

This Writ Petition is filed seeking a Certiorari to call for the records relating to the Agenda in item No.11 on the file of the 1st respondent dated 27-6-1994 confirming the Orders passed by the 2nd respondent dated 26-4-1994 ordering stoppage of four increments with cumulative effect and treating the suspension as not on duty and quash the same.

It appears, the petitioner was working as Field Supervisor in the respondent-Bank and posted as an Officer (Advances). While so, on 14-12-1992 he was placed under suspension for certain irregularities alleged to have been committed by him in disbursement of sheep and cow loans. The Bank has granted an amount of Rs.1,37,500/- on the proposals submitted by the petitioner. For this amount, two Demand Drafts were issued – one for Rs.1,00,000 and another for Rs.37,500/-. Insofar as the first Demand Draft for Rs.1,00,000/- was concerned, he had encashed the same on 28-11-1992 and paid the amounts to the sellers; however, since the second Demand Draft was to be encashed at Madanapalle, he promised to pay the amount to the sellers on 30-11-1992. According to the charge sheet, the petitioner has not paid the amounts on 30-11-

1992 and, in fact, on 3-12-1992 when one Renuka Aradhya, a farmer and one of the sellers, approached him, he gave evasive replies and quarrelled with him and manhandled him. Therefore, the said Renuka Aradhya filed a police case and the petitioner was arrested and he was in custody for more than 48 hours. Thereafter, the petitioner was suspended on that basis.

Insofar as the criminal case is concerned, it was found to be a false one. But, a charge sheet was issued to the petitioner by the Bank on 23-3-1993. The charge sheet refers to two allegations; one is that the petitioner has not paid Rs.37,500/- to the sellers on 30-11-1992 and produced false bills; thus, he had defrauded the funds of the Bank and the other, he manhandled the said Renuka Aradhya and that his highly objectionable behaviour has tarnished the image of the Bank. After conducting a detailed enquiry and after affording opportunity, the petitioner was imposed with the punishment of stoppage of four increments with cumulative effect and the period of suspension was treated as not on duty. Aggrieved by the same, the petitioner filed an appeal before the 1st respondent, but the same was dismissed on 27-6-1994 confirming the Order of the 2nd respondent. Challenging the same, the present Writ Petition is filed.

Learned counsel for the petitioner strenuously contended that, in fact, the amounts were paid to the sellers on 30-11-1992 itself; therefore, the question of defrauding the amounts of the Bank does not arise. Since the second Demand Draft issued for Rs.37,500/- was to be drawn at Madanapalle, the petitioner had given an undertaking that he would pay the amounts on 30-11-1992 after encashing the Draft. The petitioner had encashed the Demand Draft on 30-11-1992 and paid the amount to the sellers and he has filed the receipts with the authorities, but the same were not taken into consideration properly.

On the other hand, the authorities have found that the petitioner has paid this amount only on 23-12-1992 after the criminal case was booked against him and he was suspended. In fact, the authorities have no jurisdiction to enquire into the aspect as to manhandling of Renuka Aradhya since it fell outside his employment; as such, the question of his suspension does not arise. Assuming that the authorities have power to suspend the petitioner, since the criminal case was closed as a false one, he is entitled for full wages for the suspension period automatically, on his reinstatement. Insofar as the other charge as to defrauding the funds of the Bank and paying the amounts only on 23-12-1992 is concerned, according to the learned counsel, absolutely there is no evidence.

Per contra, learned counsel for the respondent-Bank strenuously contended that the evidence of M.Ws.2 to 4 would indicate that the petitioner has defrauded the funds of the Bank and further it cannot be said that the incident of manhandling of Renuka Aradhya had arisen outside the employment. In fact, Renuka Aradhya, was one of the sellers and he, in fact, came to the Bank on 3-12-1992 to enquire about the amount to be paid i.e. Rs.37,500/- as promised by the petitioner on 30-11-1992 itself. Since the petitioner has not paid the amount, Renuka Aradhya approached him and thus the whole incident arose in the process of employment of the petitioner. Therefore, it cannot be said that the conduct of petitioner could not have been enquired into by the authorities.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and gone through the entire material made available on record including the impugned Orders.

At the outset, I am of the opinion that it cannot be said that the

petitioner was not involved in the misconduct. Apart from the evidence of M.Ws.2 to 5 a criminal case was also laid against the petitioner, may be it was treated as a false one and he was discharged. But, it cannot be said that the incident arose outside the employment of the petitioner. Therefore, the respondents are entitled to enquire into the matter. However, the respondents have not taken into consideration the discharging of the petitioner in the criminal case. Further, there is no direct evidence to show that the amounts were detained by the petitioner till 23-12-1992, except the oral testimony of M.Ws.2 to 4. In fact, Ex.M15 is not in the handwriting of the petitioner. One Seshadri said to have written that and the receipt was signed by Renuka Aradhya himself. Therefore, there is any amount of suspicion as to the execution of Ex.M15 itself firstly for the reason that Renuka Aradhya filed criminal complaint against the petitioner on 3-12-1992 and also he was examined as a witness in the domestic enquiry. Secondly, Ex.M15 receipt was not issued by a proper person that is the seller of the goods/sheep. Why Renuka Aradhya has executed Ex.M15-receipt on behalf of others is not known. Admittedly, he is not the person who sold the cows/sheep. He is only a mediator to identify the breeding cows and sheep. Further, the criminal case filed against the petitioner was investigated and final report dated 14-4-1993 has been filed before the Court of Munsif Magistrate, Lakkireddipalle by the Sub-Inspector of Police, Chekrayapet Police Station stating as under:

> "……in fact, A1 and A2 did not give any money to the complainant. There is no truth in the version of the complainant, but he had lodged this complaint at the instigation of the rivals of A1 and A2, who just wanted to wreak vengeance against them…….In the above circumstances, I am referring this case as false and request that orders may be passed as such and proceedings issued accordingly."

On the basis of the said report, the learned Magistrate passed

docket Order on 20-1-1994 in Crime No.47 of 1992 as under:

> "In the circumstances stated by the S.I. of Police, Chakrayapet (the then) and also in view of the endorsement made by the C.I. of Police, L.R.Palle circle treated the case as false. Issue proceedings as false. A1 and A2 are discharged"

In the above circumstances, I am of the opinion that imposing the punishment of stoppage of four increments with cumulative effect is disproportionate to that of the misconduct alleged against the petitioner and such a punishment could have been imposed for a limited period or stoppage of increments could have been made without cumulative effect. Therefore, I deem it appropriate that the punishment of stoppage of four increments with cumulative effect be treated as the 'punishment of stoppage of four increments without cumulative effect'. The petitioner, however, is not entitled for any arrears till 31-12-2006 and the four increments shall be deemed to have been restored with effect from 1-1-2007. Insofar as the payment of salary during the period of suspension is concerned, the petitioner is at liberty to make a representation, in this regard, before the authority. If such a representation is made, the respondents shall consider the same and pass appropriate orders as per the Regulations of the Bank.

The Writ Petition is allowed to the extent indicated above. No order as to costs.

15-02-2007

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